

ESTTA Tracking number: **ESTTA582539**

Filing date: **01/17/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	American Latex Corp.		
Entity	Corporation	Citizenship	California
Address	21230 Lassen Street Chatsworth, CA 91311 UNITED STATES		

Attorney information	Douglas H. Morseburg Shedlon Mak & Anderson 100 Corson Street, 3rd Floor Pasadena, CA 91103 UNITED STATES douglas.morseburg@usip.com, faith.kristiansen@usip.com, docketingdept@usip.com Phone:626-796-4000, ext. 217
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Applicant Information

Application No	86118907	Publication date	01/14/2014
Opposition Filing Date	01/17/2014	Opposition Period Ends	02/13/2014
Applicant	ThinkBug LLC 4155 Lawrenceville Hwy #8178 Lilburn, GA 30047 GABON		

Goods/Services Affected by Opposition


Class 010. First Use: 2012/08/05 First Use In Commerce: 2012/08/05
All goods and services in the class are opposed, namely: Adult sexual stimulation aids, namely, ben wa balls, duotone balls, kegel weights, pelvic floor exercisers, vaginal exercisers, vibrators

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2972332	Application Date	10/17/2003
Registration Date	07/19/2005	Foreign Priority Date	NONE
Word Mark	LOVES		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 004. First use: First Use: 2005/01/01 First Use In Commerce: 2005/01/01 Scented candles made of wax</p> <p>Class 010. First use: First Use: 2005/01/01 First Use In Commerce: 2005/01/01 Adult sexual aids, namely, sex dolls made in part of silicone or rubber, electric and non-electric massage apparatus, handheld vibrators and vibrator sleeves, dildos, dongs, anal plugs, and reproductions of parts of the male and female anatomy</p>

Attachments	<p>76556669#TMSN.gif(bytes)</p> <p>20140117 Statement of Opposition.Final.pdf(18749 bytes)</p>
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/douglashmorseburg/
Name	Douglas H. Morseburg
Date	01/17/2014

STATEMENT OF OPPOSITION

Opposer American Latex Corp. (“Opposer”) believes that it will be damaged by registration of the mark which is the subject of Application Serial No. 86/118,907 and it hereby opposes same. As grounds for its opposition, Opposer alleges as follows:

1. Opposer is a corporation duly incorporated under the laws of the State of California with its principal place of business in Chatsworth, California.
2. Opposer is informed and it believes that ThinkBug LLC (“Applicant”) is a limited liability company organized and existing under the laws of the State of Georgia with its principal place of business in Lilburn, Georgia.
3. Opposer is informed and it believes that Applicant is the owner of U.S. Application Serial No. 86/118,907 (the “‘907 Application”).

GROUND FOR DENIAL OF REGISTRATION

(Priority and Likelihood of Confusion)

4. On or about October 17, 2003, Opposer filed an application in the U.S. Patent and Trademark Office (“PTO”) under Section 1(b) of the Trademark Act to register the term LOVES in standard character format as a trademark for, among other things, adult sexual aids in International Class (“IC”) 010. The application was assigned Serial No. 76/556669 (the “‘669 Application”). On or about October 12, 2004, the PTO issued a Notice of Allowance with respect to the ‘669 Application.
5. Opposer commenced using the LOVES mark in commerce at least as early as January 1, 2005 and it filed a Statement of Use (“SOU”) in connection with the ‘669 Application on or about March 10, 2005. The PTO accepted the SOU and issued a registration for the

LOVES mark to Opposer for use in connection with, among other things, “Adult sexual aids, namely, sex dolls made in part of silicone or rubber, electric and non-electric massage apparatus, handheld vibrators and vibrator sleeves, dildos, donges, anal plugs, and reproductions of parts of the male and female anatomy” in International Class (“IC”) 010. The registration issued on July 19, 2005 and it is assigned Reg. No. 2,972,332 (the “332 Registration”). Opposer has been using the LOVES mark in connection with the goods specified in the ‘332 Registration since at least January 1, 2005.

6. On or about November 14, 2013, Applicant filed the ‘907 Application with the PTO under Section 1(a) of the Trademark Act to register the term SECRET LOVE for use in connection with “Adult sexual stimulation aids, namely, ben wa balls, duotone balls, kegel weights, pelvic floor exercisers, vaginal exercisers, [and] vibrators” in IC 010, claiming a date of first use in commerce of August 5, 2012.

7. Opposer is informed and it believes that its constructive and actual dates of first use of the LOVES mark in commerce are prior to the Applicant’s claimed and actual dates of first use of the SECRET LOVE mark. In addition, the goods which are the subject of Applicant’s ‘907 Application overlap, and are closely related to, the goods that are the subject of Opposer’s ‘332 Registration and the mark that is the subject of Applicant’s ‘907 Application incorporates a term that is virtually identical to the mark that is the subject of Opposer’s ‘332 Registration, namely, the term LOVE.

8. As a consequence of the fact that the goods that are the subject of the ‘332 Registration and the ‘907 Application overlap and are closely related and the further fact that the mark that is the subject of the ‘907 Application incorporates a term that is virtually identical to

the mark that is the subject of the '332 Registration, registration of the SECRET LOVE mark for use in connection with Applicant's goods is likely to cause confusion, mistake or deception in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

9. Thus, the issuance of a registration to Applicant for the SECRET LOVE mark would impair and injuriously affect Opposer's rights.

For the foregoing reasons, registration of the SECRET LOVE mark to Applicant should be denied.